

OCT. 19. 2005 1:09PM

AVENTIS US PAT DEPT

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NO. 9167 P. 18

OCT 12 2006

OFFICE OF PETITIONS

REMARKS

Upon entry of the foregoing amendments, claims 1 to 6, 21, 22, and 24 to 45 will be pending in the present patent application. Claims 28 to 45 are new. The subject matter of original (and previously withdrawn) claims 7 to 20 have been reintroduced into the present application in new claims 28 to 36.

By way of background, original method of treatment claims 7 to 20 were restricted out of the present patent application. On or about April 19, 2005, Examiner Saeed called Applicants' representative, the undersigned ("Mr. Rossi"), to inform him that the compound claims were allowable and was considering rejoining the method of treatment claims, however, he had some issues with respect to the breadth of the claims. In this regard, Examiner Saeed alleged that the breadth of the claims with respect to the number of diseases to be treated with the claimed compounds was not equivalent to the scope of enablement provided by the specification. Accordingly, Examiner Saeed requested that Applicants cancel the method claims to be later pursued in a divisional application.

After conferring with his client, Mr. Rossi contacted Examiner Saeed and requested an Office Action so Applicants could have the opportunity to respond to the Examiner's enablement concerns without having to incur the additional cost of filing a divisional patent application. Although Examiner Saeed appeared to have agreed to issue an Office Action, prosecution on the merits was closed and an *Ex parte Quayle* action was issued requiring Applicants to cancel the method of treatment claims.¹ Because prosecution on the merits was closed, Applicants responded on July 12, 2005 by canceling the method of treatment claims.

After Applicants' July 12, 2005 response to the *Ex parte Quayle* action, Applicants wished to provide additional information to the Examiner in the form of an IDS. Coincidentally, a Notice of Allowance dated July 21, 2005 was mailed by the Patent Office.

¹ During a telephone conversation on August 4, 2005 between Examiner Saeed and Mr. Rossi, Examiner Saeed acknowledged that prosecution was closed mistakenly.

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Mr. Rossi contacted Examiner Saeed to notify him of Applicants intent to file the present RCE and to request respectfully the opportunity to address his enablement concerns in the present patent application.

Information Disclosure Statement (IDS)

Applicants submit herewith an IDS to bring to the Examiner's attention to U.S. Patent No. 4,474,692 and JP 9071534. Applicants request further examination of the claims in view of these references.

Miscellaneous

Applicants also wish like to bring to the Examiner's attention the following Serial Nos. of U.S. patent applications owned by the present assignee, Aventis Pharma Deutschland GmbH, that include similar subject matter (i.e., are in the same technical field) as the instant patent application.

U.S. Serial No.	Status	Inventor(s)
10/073,330	US 6,617,359	Dharanipragada, Safarova, Strobel, Suzuki, Walser, Wohlfart
10/623,775	US 6,812,253	Dharanipragada, Safarova, Strobel, Suzuki, Walser, Wohlfart
10/920,395	Pending	Dharanipragada, Safarova, Strobel, Suzuki, Walser, Wohlfart
10/073,307	Pending	Strobel, Wohlfart
10/073,203	US 6,759,412	Strobel, Wohlfart
10/859,773	US 6,949,556	Strobel, Wohlfart
10/634,979	Pending	Below, Strobel, Wohlfart
10/632,083	Pending	Strobel, Wohlfart
10/636,001	Pending	Below, Strobel, Wohlfart
10/979,399	Pending	Dimmeler, Heeschen, Ruetten, Zeiher

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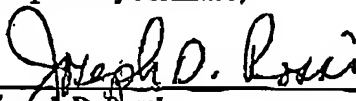
Applicants request the Examiner's acknowledgement of this information in the next Office Action. Applicants wish to thank the Examiner in advance for this acknowledgement.

Applicants further note that in their February 9, 2005 Reply to the Office Action dated September 9, 2004, Applicants filed a Request to Correct Inventorship Pursuant to 37 C.F.R. § 1.48(b). Applicants note that such Request was never acknowledged by the Examiner. Accordingly Applicants request respectfully that the next Office Action include an indication from the Examiner as to whether such Request was granted. Applicants again wish to thank the Examiner in advance for this acknowledgement.

If there are any issues that can be resolved by a telephone conference or an Examiner's amendment, the Examiner is invited to call the undersigned attorney at (908) 231-3410.

The Commissioner is hereby authorized to charge the fee required and any additional fees that may be needed to Deposit Account No. 18-1982 in the name of Aventis Pharmaceuticals Inc.

Respectfully submitted,


Joseph D. Rossi
Registration No. 47,038
Attorney for Applicants

Dated: October 19, 2005

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